



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE

Southwest Region  
501 West Ocean Boulevard, Suite 4200  
Long Beach, California 90802-4213

**JUN 22 2005**

Via Certified Mail

**NOTICE FOR VESSEL OWNERS/OPERATORS OF  
CALIFORNIA PURSE SEINE FISHERIES**

**This notice contains essential information for vessel owners or operators participating in the California purse seine fisheries. This notice does not apply to vessel owners or operators participating in the purse seine fisheries of Oregon, Washington, and Alaska.**

This letter is official notification of your obligation to comply with the regulations implementing the Marine Mammal Protection Act (MMPA) and the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) that require vessels to carry observers on any or all fishing trips as directed by the NOAA's National Marine Fisheries Service (NMFS) or the designated contractor. The following specific California purse seine fisheries are included:

**Northern anchovy, Pacific mackerel, Market squid:**

[50 CFR § 229.7, Marine Mammal Authorization Program]

[50 CFR § 660.519, Coastal Pelagic Species Fisheries Management Plan]

**Tuna:**

[50 CFR § 229.7, Marine Mammal Authorization Program]

[50 CFR § 660.719, Highly Migratory Species Fisheries Management Plan].

**Northern sardine, Jack mackerel:**

[50 CFR § 660.519, Coastal Pelagic Species Fisheries Management Plan]

For these requirements, the vessel operator is presumed to be acting as the agent of the owner unless the Regional Administrator, Southwest Region, is advised otherwise. The vessel owner is responsible for all activities conducted under the MMPA and MSFCMA, including, but not limited to, the activities of an agent or employee resulting in violations of the MMPA, MSFCMA, and other applicable regulations.

Observers will collect data on the interactions between California purse seine fishing gear and protected species, particularly marine mammals, sea turtles, and sea birds as well as target and non-target fish species.

Frank Orth & Associates (FOA) is the designated contractor who will be responsible for placing observers aboard California purse seine vessels. All vessel departure and arrival information (vessel name, operator, date, scheduled departure or arrival time, port, and contact telephone



number) shall be reported to Carolyn Parker, FOA, (800) 522-7622 or (562) 427-1822. NMFS will be convening Owner/Operator Informational Meetings to discuss the mandatory observer program for the California purse seine fisheries. NMFS has decided these meetings will be voluntary for fishing vessels who participate in the California purse seine fisheries. While meeting attendance is voluntary, I strongly encourage you to attend so that you can give us feedback and learn more about the observer program and your obligations under the MMPA and MSFCMA. Vessel personnel such as crew are also encouraged to attend.

There will be a meeting in **Long Beach**, California, on **Thursday, July 7, 2005, from 1:00 - 2:30 p.m.**, at the Long Beach Federal Building, 501 West Ocean Blvd., Suite 4200, in the Observer Training Room. There will also be a meeting in **Monterey**, California, on **Wednesday, July 13, 2005, from 2:00 - 3:30 p.m.**, at the California Department of Fish and Game Office, at 20 Lower Ragsdale Drive, Suite 100, in the front Large Conference Room.

The vessel owner, directly or through an agent or employee, is responsible for complying with regulations governing commercial fishing operations and with the following conditions that NMFS developed to ensure the effective deployment and safety of observers.

1. **Safety Requirements**

All vessels required to carry an observer must meet United States Coast Guard (USCG) safety requirements and display a current safety decal (issued within the previous two years). **Vessels that do not meet these requirements are deemed unsafe for purposes of carrying an observer and must correct noted deficiencies prior to departing port [50 CFR § 600.746(d)(2)].** Observers may not depart on a fishing trip aboard a vessel which does not comply with (USCG) safety requirements or that does not display a current Commercial Fishing Vessel Safety Examination decal [50 CFR § 600.746(c)(1)].

The vessel owner or operator must allow an observer, NMFS, or FOA to visually inspect any safety or accommodation requirement if requested [50 CFR § 600.746(c)(2)]. Observers are **required** to complete a pre-trip safety check of the emergency equipment and are encouraged to review emergency instructions with the operator prior to the vessel departing port.

If you need to schedule a dockside examination, call your nearest Marine Safety Office Dockside Examiner:

San Diego to Oceanside	(619) 683-6497
Dana Point to Morro Bay	(310) 732-2062
Monterey to Crescent City	(510) 437-5788

2. **Marine Mammal Authorization Certificate**

All participants in the California purse seine fisheries, except for Northern sardine and Jack mackerel, must obtain a Marine Mammal Authorization Certificate in order to lawfully participate in these fisheries since these fisheries are designated as Category II fisheries under the MMPA [50 CFR § 229.2]. NMFS added these fisheries to the MMPA

List of Fisheries in 1994. The Marine Mammal Authorization Certificate allows for lawful incidental serious injury and mortality of marine mammals.

If you plan to participate in the California purse seine fisheries, except for Northern sardine and Jack mackerel, and you do not currently hold a valid Marine Mammal Authorization Certificate for any listed fishery, you must obtain an Authorization Certificate for this fishery. Please contact Lyle Enriquez at (562) 980-4025 or [Lyle.Enriquez@noaa.gov](mailto:Lyle.Enriquez@noaa.gov).

Additional information and the required application forms are also provided on our website at

[http://www.nmfs.noaa.gov/pr/PR2/Fisheries\\_Interactions/MMAP.htm](http://www.nmfs.noaa.gov/pr/PR2/Fisheries_Interactions/MMAP.htm)

**3. Injury and Mortality Reporting Requirements**

Operators of all fishing vessels must report all incidental injuries and mortalities of marine mammals that have occurred as a result of commercial fishing operations on a NMFS Marine Mammal Injury/Mortality Report Form regardless of whether there was an observer aboard the vessel. The report must be sent by mail or fax within 48 hours of the end of the fishing trip in which the injury or mortality occurred [50 CFR § 229.6(a)]. Failure to report all injuries and mortalities within 48 hours may result in suspension, revocation, or denial of a Marine Mammal Authorization Certificate [50 CFR § 229.10(e)]. For copies of the Marine Mammal Injury/Mortality Report Form, contact Lyle Enriquez, (562) 980-4025 or [Lyle.Enriquez@noaa.gov](mailto:Lyle.Enriquez@noaa.gov).

Additional information and the required reporting forms are also provided on our website at [http://www.nmfs.noaa.gov/pr/PR2/Fisheries\\_Interactions/MMAP.htm](http://www.nmfs.noaa.gov/pr/PR2/Fisheries_Interactions/MMAP.htm)

**4. 24 Hour Notice**

All California purse seine vessels shall notify FOA at least 24 hours before leaving from any port for a fishing trip. Notifications shall be provided to Carolyn Parker, (800) 522-7622 or (562) 427-1822 or by fax, (562) 427-2321, seven days a week, 0800 to 1630 hours West Coast local time. Departure information must include: vessel name, operator, scheduled departure date, time, port, and contact telephone number.

**5. Accommodations**

Vessels must provide assigned observers with accommodations that are comparable to those provided to full crew members, unless other arrangements have been approved in advance of the trip by FOA.

Accommodations include the same food, toilet, bathing, sleeping accommodations, and amenities that are equivalent to those provided to the crew. These accommodations must be provided at no cost to the observer, NMFS, or FOA [50 CFR § 229.7(c)(4)(i)]. Any concerns about accommodations must be raised in advance of a trip directly with FOA's Project Manager, toll free, (800) 522-7622 or (562) 427-1822, and not with the observer.

6. **Prohibitions**

Failure to take an observer on a fishing trip: it is unlawful to fail to take an assigned observer on a fishing trip [50 CFR § 229.7(c)(1)].

Harassment of an observer: it is unlawful for any person to assault, harm, harass, (including sexual harassment), oppose, impede, intimidate, impair, or in any way influence or interfere with an observer, or to attempt the same. This includes any action which has the purpose or effect of interfering with the observer's responsibilities, or which creates an intimidating, hostile, or offensive environment [50 CFR § 229.3(b)].


7. **Expectations At Sea**

Enclosed for reference are two summaries prepared by Observer Management, NMFS, Southwest Region, describing an observer's and a captain's expectations when an observer is assigned aboard a California purse seine vessel (Enclosure A).

Questions involving the above conditions or the management of the observer program should be directed to Observer Management, NMFS, Southwest Region, 501 West Ocean Blvd., Suite 4200, Long Beach, California 90802-4213, or call Don Petersen, (562) 980-4024. Neither the designated Contractor, Frank Orth & Associates, nor the contract observer assigned aboard California purse seine vessels have the authority to modify these instructions or provisions. Any modification will be made in writing by the Regional Administrator, Southwest Region.

Sincerely,



 Rodney R. McInnis  
Regional Administrator

Enclosures

## **THE OBSERVER'S ROLE - WHAT TO EXPECT**

California Purse Seine Observer Program  
Observer Management  
Southwest Region  
National Marine Fisheries Service

### **Observers are expected to:**

- ▶ collect objective data on fishing activity, the take of target and non-target species and selected specimen samples;
- ▶ perform their duties in such a manner as to minimize interference with fishing operations;
- ▶ keep open communication with vessel personnel by informing them about observer duties and collected data;
- ▶ use work cameras to photograph specimens for identification verification;
- ▶ obtain permission from the vessel captain before using any boat equipment;
- ▶ collect whole specimens as instructed by NOAA Fisheries and clean up thoroughly afterward;
- ▶ bring, and wear when necessary, issued rain gear, boots, personal floatation device (PFD), survival suit, and EPIRB;
- ▶ ask the captain about emergency procedures and familiarize themselves with the locations of communication radios, life rafts, EPIRB, fire extinguishers, and first aid kits;
- ▶ remain on their assigned vessel until it returns to port to unload; and
- ▶ share housekeeping routines such as dish washing and head clean-up with the crew.

### **Observers are not expected to:**

- ▶ dictate procedures or direct fishing operations;
- ▶ be involved with crew responsibilities such as standing watch or helping with fishing;
- ▶ keep personal diaries in any form, bring aboard recording devices, personal computers, or personal cameras of any type;
- ▶ compromise data or record extemporaneous or personal comments;
- ▶ conduct personal research of any kind, or keep specimens or edible fish of any kind; or
- ▶ talk about any boat's business while aboard another boat or to any fishermen dockside.

## **THE CAPTAIN'S ROLE - WHAT TO EXPECT**

California Purse Seine Observer Program  
Observer Management  
Southwest Region  
National Marine Fisheries Service

### **Captains are expected to:**

- ▶ cooperate with the observer in the performance of the observer's duties;
- ▶ provide observers living quarters comparable to a full crew member;
- ▶ provide the same meals, snacks, and amenities provided to crew members;
- ▶ allow the observer access to areas of the vessel necessary to conduct observer duties;
- ▶ allow the observer access to communication and navigation equipment, as necessary to perform observer duties;
- ▶ notify the observer when commercial fishing operations are to begin and end;
- ▶ provide true vessel locations by latitude and longitude upon request by the observer;
- ▶ bring aboard marine mammals, sea turtles and sea birds that are injured or dead during fishing operations for biological processing that are readily accessible to crew members, if requested by the observer;
- ▶ provide cold storage space for observer collected specimens;
- ▶ record comments on the back of the observer's original forms, if there is a disagreement with the observer's collected data, or need to provide additional information; and
- ▶ comply with other guidelines, regulations or conditions that NOAA Fisheries may provide in writing to ensure the effective use of observers.

### **Captains are not expected to:**

- ▶ assault, harass, sexually harass, intimidate, attempt to influence observers, interfere with, or impede observer duties;
- ▶ ask observers to stand watch or help with fishing operations; or
- ▶ fish without an observer on board the vessel after the owner or agent of the owner has been directed by NOAA Fisheries or the designated contractor to make accommodations available for an observer.